
**BZA-1892
TROY KRUGER
Special Exception**

**STAFF REPORT
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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner is requesting a special exception to legitimize an existing farm tire sale and repair business which falls under farm machinery sales and service operation (SIC 5083) in the use table of the UZO. The use requires a special exception in the A zone. The business would be restricted to operating between the hours of Monday through Saturday, 8:00 am until 5:00 pm and is located at 7001 S CR 250 E (Lot 1 of Migraine Acres Minor Subdivision) in Wea 34 (NE) 22-4. (UZO 3-2)

This case was filed because a zoning complaint was submitted; after an investigation the Administrative Officer determined that a business was being operated in violation of the zoning ordinance. Investigations by IDEM and the County Health Department are also ongoing.

AREA ZONING PATTERNS:

The site is zoned A, Agricultural as is all surrounding property with the exception of the Flood Plain zoning associated with the Wea Creek and two lots zoned R1 along CR 200 East just over a half mile away. BZA activity in this area has been nominal. The only other BZA case in this area of the county was approximately a half mile south of this site along 250 East, where four setback variances were requested and three were approved in 1983 (BZA-0568).

AREA LAND USE PATTERNS:

This area of the county is almost exclusively single-family homes on large lots and farmland.

TRAFFIC AND TRANSPORTATION:

The site is located southeast of the corner where CR 700 South and 250 East "T" into each other. Both streets are classified as rural local roads and see little traffic. Traffic counts take in 2012 show that an average of approximately 120-200 cars passes this site daily. The use as shown is required to provide 5 parking spaces (one per 400 square feet of gross floor area). Though parking is not delineated, the site can easily accommodate the required number of spaces which do not have to be paved.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The Tippecanoe County Health Department is aware of the potential trouble this site poses. Their concerns are mosquito larvae hatching in tires left to gather water. The

health department found no active larvae at the time of a site visit on August 20, 2013. The department states that the petitioner is required to continue his mosquito control program per its recommendation. The health department and staff would prefer that petitioner provide roof cover for all tires on site.

Indiana Department of Environmental Management, (IDEM) was also contacted about a violation on this site. Staff has received a copy of the open report that was conducted on June 5, 2013 by IDEM. The report mentioned that there were approximately 1300 passenger tires on site. A site visit on Tuesday, August 20 conducted by staff from both the APC and health department revealed that that number was reduced to less than 100 remaining passenger tires. The petitioner stated that he planned to have the remaining passenger tires removed soon. This case remains open until another visit by IDEM can be completed.

Staff is recommending that commitments be recorded to keep petitioner in compliance with IDEM and the County Health Department regulations.

STAFF COMMENTS:

Petitioner has been conducting a farm tire sale and repair business for over 20 years. The operation has been located in a barn at this location since 1999. The barn is used to store new tires and a fenced area behind the barn is the location where used tires are stored. Petitioner stated that he repairs and replaces tires at job sites and only returns to the site to load and unload equipment. Petitioner also stated that fewer customers are visiting the site because receiving digital pictures of used tires is more convenient than site visits.

This request is a result of a zoning violation but has been operating in this location since 1999. Prior to that, petitioner has had his business at several different locations throughout the county. Petitioner thought he was operating in a permitted zone because he mainly services farm equipment, (tractor tires). After a zoning investigation into the business operations it was determined that the use requires a special exception if located in the A zone.

Petitioner is also in contact with the County Health Department and IDEM about violations. He is in compliance with the health department as long as he continues the mosquito control program per its recommendation; staff recommends approval contingent on maintaining compliance. Violations with IDEM include operating a waste tire storage site and storage of material which creates a threat to human health or the environment. Staff is waiting for a response from IDEM or the petitioner concerning this ongoing violation.

At its meeting on August 7, 2013 the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1 of the Unified Zoning Ordinance **DOES** authorize the special exception for farm machinery and equipment sales and service (SIC 5083) in the Agricultural (A) zoning district.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met. This lot was created in a subdivision in 2008 and meets all the development standards of the A zone. No additional standards are required for this use except for parking; that standard can easily be met.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance as long as the use stays in compliance with local health department and IDEM requirements.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
 - a. Traffic generation: Petitioner has stated that he travels to the customer almost exclusively. With the rare exception of a customer wanting to see a used tire, no customers visit the site. Petitioner stated that with the advancements in technology, digital pictures and email, that less customers than ever are visiting the site. Petitioner can snap a picture of a used tire, send it and the customer can decide whether or not to purchase it.
 - b. Placement of outdoor lighting: The only lighting on site is security lighting for the structure above the entrance.
 - c. Noise production: The only noises associated with this use is loading and unloading of supplies and equipment and fitting tires on rims. The petitioner's machinery has the noise level of a lawn mower and is normally used at the job site, not at his business location.
 - d. Hours of operation: Monday thru Saturday 8:00 am to 5:00 pm. These hours are standard hours for a business regardless of location.

STAFF RECOMMENDATION:

Approval, with the following recorded commitments:

1. Remove all passenger tires and remove all tire scraps;
2. Continue mosquito control program as recommended by the Tippecanoe County Health Department;
3. Continuing compliance with IDEM's requirements.